

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.4 and 476.1 and 2009 Iowa Acts, Senate File 279 [Iowa Code section 478.1(5)], the Utilities Board (Board) gives notice that on May 28, 2009, the Board issued an order in Docket No. RMU-2009-0006, In re: Requirements for Abbreviated Franchise Petition [199 IAC Chapter 11], "Order Commencing Rule Making," that establishes the requirements for a petition for an electric franchise that meets the requirements of Iowa Code section 478.1(5), which was passed by the General Assembly during this past legislative session as 2009 Iowa Acts, Senate File 279, and which has been signed by the Governor.

Iowa Code section 478.1(5) establishes an abbreviated process where an electric company proposes to upgrade a 34.5 kilovolt (kV) electric line to a line capable of operating at 69 kV that meets required safety standards, will be on substantially the same right-of-way, and will have substantially the same effect on the underlying properties. If these conditions are met, published notice will not be required for the upgrade and an informational meeting will not be required.

The legislation also provides that the Board may adopt rules defining relevant terms, setting forth the steps of the separate process, and specifying the requirements for the petition and landowner notification. In addition, the petitioner is required to provide written notice to the last-known address of the owners of record of the property where construction will occur or to persons residing on the property. Finally, the franchise may be granted if the Board finds the upgraded line is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

The Board is proposing amendments to its franchise process in 199 IAC Chapter 11 to implement the abbreviated franchise process established in 2009 Iowa Acts, Senate File 279. The order commencing the rule making can be found on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before July 7, 2009. The statement should be filed electronically through the Board's Electronic Filing System (EFS). Instructions for submitting an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author's name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation to receive oral comments on the proposed amendments will be held at 1:30 p.m. on July 28, 2009, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.1 and 2009 Iowa Acts, Senate File 279.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 11.1(9):

11.1(9) Eligibility for abbreviated franchise process. Petitions for an electric franchise or an amendment to a franchise may be filed pursuant to the abbreviated franchise process set forth in 2009 Iowa Acts, Senate File 279 [Iowa Code section 478.1(5)], if the following requirements are met:

- a. The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.
- b. The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, “substantially the same right-of-way” means that the new or additional interests in private property will be required for less than one mile of the proposed project length.
- c. The project will have substantially the same effect on underlying properties as the existing 34.5 kV line.
- d. The completed line will comply with the Iowa electrical safety code found in 199—Chapter 25.
- e. Notice will be provided as required in subrule 11.5(11).
- f. The petitioner does not request the power of eminent domain.
- g. The petitioner agrees to pay all costs and expenses of the franchise proceeding.

Petitions that do not comply with the eligibility requirements in paragraphs 11.1(9) “a” through “g” shall be rejected.

ITEM 2. Adopt the following **new** subrule 11.2(3):

11.2(3) Form of petition for abbreviated franchise process. A petition for a new franchise or an amendment to a franchise filed pursuant to the abbreviated franchise process set forth in 2009 Iowa Acts, Senate File 279 [Iowa Code section 478.1(5)], shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this subrule may be attached when appropriate. The exhibits that are required to be attached are as follows:

a. *Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. The description shall identify any termini located in other counties.

b. *Exhibit B.* A map showing the route of the line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including the starting and ending points and, when parallel to a road or railroad, the side on which the line is located. Line sections with double circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, railroads, major streams and bodies of water, and any other significant natural or man-made features or landmarks.

(4) The name and corporate limits of cities.

(5) If any deviation from the existing route is proposed, the original and proposed routes shall be shown and identified.

c. *Exhibit C.* Technical information and engineering specifications describing typical materials, equipment, and assembly methods as specified on forms provided by the board.

d. *Exhibit D.* The exhibit shall consist of written text containing the following:

(1) A listing of any existing franchises that would be terminated or amended in whole or in part by this petition, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) An allegation, with supporting testimony, that the project is eligible for the abbreviated franchise process.

(3) An allegation, with supporting testimony, that the project is necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest.

(4) An explanation for any departures from the existing line route.

e. Exhibit E. A statement that the right of eminent domain is not being requested.

f. Exhibit F. The exhibit shall consist of:

(1) A showing of notice to other electric, pipeline, telephone, communication, cable television, rural water district, and railroad companies that are crossed by or in shared right-of-way with the proposed electric line.

(2) A showing of approval of the appropriate highway authority if the line is to be constructed over, across, or along a public highway.

g. Exhibit G. The exhibit shall consist of the form of notice mailed in accordance with subrule 11.5(11) to owners of and persons residing on property where construction shall occur.

ITEM 3. Adopt the following new paragraph **11.3(1)“g”**:

g. Petition for Franchise or Amendment to Franchise Under Abbreviated Franchise Process.

ITEM 4. Adopt the following new subrule 11.5(11):

11.5(11) *Notice of franchise or amendment to franchise under abbreviated franchise process.* The petitioner shall provide written notice concerning the anticipated construction to the last-known address of the owners of record of the property where construction will occur and to persons residing on such property. Notices may be served by ordinary mail, addressed to the last-known address, mailed not later than the date the petition is filed with the board. Petitioner must make a good-faith effort to identify and notify all owners of record and persons residing on the property. The notice shall include the following information:

a. A description of the purpose of the project and the nature of the work to be performed.

b. A copy of the Exhibit B map.

c. The estimated dates the construction or reconstruction will commence and end.

d. The name, address, telephone number, and E-mail address of a representative of the petitioner who can respond to inquiries concerning the anticipated construction.

e. For purposes of this subrule, a property where construction will occur is any property upon which entry will be required for the purposes of the project, or which will be overhung by structural elements or conductors.